

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:02-CR-106-1-F

De'JUAN ANDERKO WATKINS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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ORDER

This matter again is before the court, this time on De'Juan Watkins' October 19, 2010, Motion for Reduction of Sentence [DE-83] under 18 U.S.C. § 3582(c). The Fourth Circuit Court of Appeals only recently entered judgment [DE-82] affirming this court's denial [DE-76] of Watkins' Motion for a Writ of Audita Querela [DE-75] .

Watkins received a reduction in his sentence on May 8, 2009, pursuant to 18 U.S.C. § 3582(c) and the retroactive amendment of the advisory Sentencing Guidelines concerning calculation of sentencing for crack cocaine convictions. His sentence was reduced from 188 months to 162 months imprisonment.

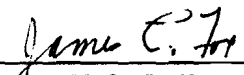
Watkins' new motion seeking a further reduction in his sentence is based on "the new retroactive amendments to the crack cocaine guidelines." The court is unaware of any new retroactive guidelines pertaining to sentencing in crack cocaine cases. Although 21 U.S.C. § 841(a)(1) has been amended to raise the quantity of crack cocaine necessary to invoke the statutory mandatory minimum sentences, those amendments are not retroactive. The Sentencing Commission less than a week ago promulgated emergency amendments to the guidelines in light of the statutory amendment, but the guideline amendments do not take effect

until November 1, 2010, and they are not retroactive because they are not listed in U.S.S.G. § 1B1.10(c).

Accordingly, because the relief Watkins seeks is not available to him, his Motion for Reduction of Sentence [DE-83] is DENIED without prejudice to renew should he later become eligible to do so.

SO ORDERED.

This, the 22nd day of October, 2010.



JAMES C. FOX
Senior United States District Judge